

AMENDED IN SENATE JUNE 8, 2006  
AMENDED IN SENATE MAY 15, 2006  
AMENDED IN SENATE MAY 10, 2006  
AMENDED IN SENATE MAY 8, 2006  
AMENDED IN SENATE APRIL 26, 2006  
AMENDED IN SENATE FEBRUARY 22, 2006  
AMENDED IN ASSEMBLY JANUARY 4, 2006

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1598**

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**Introduced by Committee on Agriculture (Matthews (Chair),  
Maze (Vice Chair), Canciamilla, Cogdill, Parra, Salinas, and  
Vargas)**

February 22, 2005

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An act to amend Sections 24012, 52254, 52260, 52351, 52354, 52361, 52391, 52451, 52453, 52455, 52481, 52482, 52483, 52484, 52487, 52511, 56382.8, 78623, 78640, 78700, and 79040 of the Food and Agricultural Code, relating to agriculture omnibus, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 1598, as amended, Committee on Agriculture. Agriculture omnibus changes.

Existing law provides that in order to provide for the enforcement of provisions relating to the drugging of horses, the event manager of every event shall charge and collect a fee of not more than \$3 for each

horse entered or exhibited in the event, as determined by the Secretary of Food and Agriculture to be necessary to carry out those provisions. Existing law provides that under certain circumstances the secretary may set the fee at a rate in excess of \$3 per horse, but no greater than \$5 per horse.

This bill would instead provide that the event manager shall charge and collect a fee that the secretary determines to be necessary to carry out the provisions relating to the drugging of horses, as specified.

This bill would increase the fees that may be charged and collected for the purposes of enforcing the provisions relating to the drugging of horses. These fees would be deposited into the Department of Food and Agriculture Fund, and would be continuously appropriated to the department for the purposes for which they are collected. Therefore, this bill would make an appropriation by increasing the money in a continuously appropriated fund.

Existing law, the California Seed Law, generally regulates seed sold in California to ensure that seed purchased by the consumer-buyer is properly identified and of the quality represented on the tag or label. Existing law defines agricultural seed as not including any variety that is generally known and sold as vegetable seed, for these purposes. Existing law provides that vegetable seed sold in a container 1/2 pound or less that is for sowing purposes shall bear upon it the year in which it is intended for planting.

This bill would remove these provisions and would instead provide that any vegetable seed sold in a container 1/2 pound or less bear upon it at the time of retail sale for nonfarm use the viability assurance statement “Packed for the (year) season.” This bill would make numerous other nonsubstantive, conforming changes.

Because a violation of these provisions would be a crime, this bill would impose a state-mandated local program.

Pursuant to provisions relating to the licensure and regulation of produce dealers a procedure is provided whereby an aggrieved grower or licensee may file a complaint with the Department of Food and Agriculture subject to expedited review and settlement. If the dispute is not resolved through informal consultation, the complainant may pursue arbitration by following specified procedures including that he or she pay a fee for the arbitration to the department. Existing law also requires the respondent to pay a fee for any counterclaim that is filed.

This bill would provide that those fees shall be submitted to the department made payable to the arbitrator, arbitration service, or payee designated by the department.

Existing law establishes the California Tomato Commission in state government with a prescribed membership comprised of producers and handlers representing 8 districts, and it specifies the powers, duties, and responsibilities of the commission.

This bill would reduce the number of districts to 7 by eliminating the district consisting of Baja California (Mexico) and eliminate the member representing California tomato handlers who exclusively handle tomatoes produced in Baja California (Mexico). This bill would also increase the membership of the commission by adding one at-large handler from District 7 which consists of all counties of the state.

Existing law provides that the commission shall establish an assessment against tomato handlers, as specified.

This bill would remove provisions relating to the assessment of handlers who receive tomatoes produced outside the state.

Existing law provides that there is in state government the California Sea Urchin Commission composed of members, as specified, including 5 elected by handlers from among ~~person~~ *persons* qualified to engage in sea urchin fishery. *Existing law requires persons nominated for election as a diver member be nominated by a petition signed by at least 10 divers, as specified.*

~~This bill would make a nonsubstantive change to these provisions~~ *instead require a petition signed by at least 5 divers, as specified.*

This bill would also change the counties from which a diver member of the commission is elected.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: yes. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

SECTION 1. Section 24012 of the Food and Agricultural Code is amended to read:

24012. (a) To provide funds for enforcement of this chapter, the event manager of every event shall charge and collect the applicable fee for each horse entered or exhibited in the event, and each horse consigned for public sale. Based upon, and in accordance with, the recommendation of the advisory committee appointed pursuant to Section 24013.5, the secretary may, by regulation, set the applicable fee at an amount necessary to carry out this chapter. Event managers shall be notified of the applicable fee at the time of registration of an event. The event manager of the registered event shall remit the fee established pursuant to this section, in addition to the completed assessment summary, as prescribed by the secretary, to the department within 15 days after completion of the event.

(b) Any event manager who does not pay to the department the full amount that is due pursuant to this section shall pay a civil penalty of 10 percent of the amount due plus interest at the rate of 1 ½ percent per month of the unpaid balance computed from the date of the event. The event manager is personally liable for fees and penalties owed the department pursuant to this section.

(c) Fees and penalties collected pursuant to this section shall be deposited in the Department of Food and Agriculture Fund. All funds received by the department from fees and penalties pursuant to this section shall be used exclusively to carry out the intent and purpose of this chapter, including, but not limited to, pharmacological studies, drug testing, and drug research, inspection for drugs, prosecution of alleged offenders, administrative costs, attorneys and expert witness fees, and any other costs necessary to carry out this chapter.

SEC. 2. Section 52254 of the Food and Agricultural Code is amended to read:

52254. "Agricultural seed" means the seed of any domesticated grass or cereal, and of any legume or other plant that is grown as turf, cover crop, forage crop, fiber crop, or field crop, and mixtures of such seeds. It does not, however, include

1 any variety that is generally known and sold as flower seed or  
2 vegetable seed.

3 SEC. 3. Section 52260 of the Food and Agricultural Code is  
4 amended to read:

5 52260. "Weed seed" means any noxious weed seed or  
6 vegetable seeds, and any seed that is not included in the  
7 definitions of agricultural seed, if it occurs incidentally in  
8 agricultural seed or vegetable seeds.

9 SEC. 4. Section 52351 of the Food and Agricultural Code is  
10 amended to read:

11 52351. Every labeler of agricultural or vegetable seed offered  
12 for sale or sold in this state, or any person who receives or  
13 possesses for sale or sells in this state any such seed ~~which~~ *that* is  
14 not grown in this state, shall annually register with the secretary  
15 to obtain authorization to sell agricultural or vegetable seed  
16 before ~~he engages~~ *engaging* in this activity, except any of the  
17 following:

18 (a) An individual grower that conditions such seed exclusively  
19 for ~~his~~ *the grower's* own planting use.

20 (b) A person using agricultural or vegetable seed, or both  
21 agricultural and vegetable seed, only for purposes of planting  
22 seed increase.

23 (c) Any person licensed to sell nursery stock pursuant to  
24 Chapter 1 (commencing with Section 6701) of Part 3 of Division  
25 4, except when *he or she* also engages in activities as defined  
26 under Section 52257.5.

27 SEC. 5. Section 52354 of the Food and Agricultural Code is  
28 amended to read:

29 52354. Each person who is required to be registered pursuant  
30 to Section 52351 shall pay an assessment annually to the  
31 secretary in an amount not to exceed forty cents (\$0.40) per one  
32 hundred dollars (\$100) gross annual dollar volume sales of  
33 agricultural or vegetable seed, or both, in this state for the  
34 preceding fiscal year defined in Section 52352, except in the  
35 following cases:

36 (a) No assessment shall be paid by any labeler or any other  
37 person for any agricultural or vegetable seed for which the  
38 assessment has been previously paid by another labeler or  
39 person, unless the identity of the lot has been changed.

1 (b) No assessment shall be paid on that portion of a person's  
2 sales of agricultural or vegetable seed, or both, that is sold in  
3 containers of four ounces or less net weight of seed.

4 (c) No assessment shall be paid on agricultural or vegetable  
5 seed, or both, sold and shipped out of this state.

6 SEC. 6. Section 52361 of the Food and Agricultural Code is  
7 amended to read:

8 52361. The secretary, each commissioner, and any qualified  
9 representative of the commissioner, shall sample and inspect any  
10 agricultural or vegetable seed that is subject to this chapter at the  
11 time and place and to the extent as he or she may deem necessary  
12 to determine whether the agricultural or vegetable seed is in  
13 compliance with the provisions of this chapter, and notify  
14 promptly the person who is in possession or control of the seed  
15 of any violation.

16 SEC. 7. Section 52391 of the Food and Agricultural Code is  
17 amended to read:

18 52391. The secretary or the commissioner and any qualified  
19 representative of the commissioner may issue and enforce a  
20 written or printed "stop-sale" order to the owner or custodian of  
21 any lot of agricultural or vegetable seed that he or she finds is in  
22 violation of any provision of this chapter, that shall prohibit  
23 further sale of the seed until the officer has evidence that the law  
24 has been complied with. Upon compliance, the order shall be  
25 removed.

26 SEC. 8. Section 52451 of the Food and Agricultural Code is  
27 amended to read:

28 52451. This article does not apply to any of the following:

29 (a) Seed or grain that is not intended for sowing purposes.

30 (b) Seed that is in storage in, or consigned to, a seed cleaning  
31 or conditioning establishment for cleaning or conditioning.

32 (c) Seed or grain that is transported without transfer of title for  
33 sowing on land that is owned by the person by whom the seed or  
34 grain was produced.

35 (d) Seed that is weighed and packaged in the presence of the  
36 purchaser from a bulk container, if the container is properly and  
37 conspicuously labeled as provided by this chapter.

38 (e) Seed or grain that is transported from one warehouse to  
39 another without transfer of title or in storage in a warehouse, if  
40 each container is plainly marked or identified with a lot number

1 or other lot identification and the label information that is  
2 required by this article is available at the request of an enforcing  
3 officer.

4 SEC. 9. Section 52453 of the Food and Agricultural Code is  
5 amended to read:

6 52453. Except as otherwise provided in Section 52454, each  
7 container of vegetable seed that is for sale or sold within this  
8 state for sowing purposes shall bear upon it, or have attached to  
9 it, in a conspicuous place, a plainly written or printed label or tag  
10 in the English language, that gives all of the following  
11 information:

12 (a) Name of kind and variety of seed.

13 (b) For any seed that germinates less than the standard last  
14 established by the ~~director~~ *secretary* under this chapter, the  
15 percentage of germination, exclusive of hard seed; the percentage  
16 of hard seed, if present; the calendar month and year the test was  
17 completed to determine those percentages; and the words "Below  
18 Standard" in not less than eight-point type.

19 (c) Name and address of the person that labeled the seed, or of  
20 the person that sells the seed within this state.

21 (d) In addition to the information required in subdivisions (a),  
22 (b), and (c), on each container of more than one-half pound (227  
23 grams), the label shall include both the lot number or other lot  
24 identification and the calendar month and year the germination  
25 test was completed.

26 SEC. 10. Section 52455 of the Food and Agricultural Code is  
27 amended to read:

28 52455. In addition to the labeling requirements of this article,  
29 all seed at the time of sale by a retail merchant for nonfarm  
30 usage, shall conspicuously bear upon the labeling of the seed a  
31 viability assurance statement.

32 (a) The statement shall be "SELL BY (month) (year)," or  
33 "USE BEFORE (month)-(year)." ~~(year)~~. The month and year in  
34 the statement shall not exceed the 15-month retail time period  
35 allowed by subdivision (b) of Section 52481.

36 (b) The statement shall be conspicuous and in capital letters of  
37 the same size of type as other printed material on the labeling and  
38 contiguous to the germination date.

39 (c) The statement shall be affixed at the time of labeling for  
40 those containers destined for retail sales.

(d) For vegetable seed sold in containers of one-half pound (227 grams) or less, the viability assurance statement may read “Packed for (year) season” as an alternative to the “SELL BY (month) (year)” statements referenced in subdivision (a).

SEC. 11. Section 52481 of the Food and Agricultural Code is amended to read:

52481. Except as otherwise provided in this section or in Section 52486, it is unlawful for any person to ship, deliver, transport, or sell any agricultural or vegetable seed within this state, other than the seed that is described in Section 52451, unless the test to determine the percentage of germination that is required by Article 8 (commencing with Section 52451) has been completed within the following period, exclusive of the calendar month in which the test is completed, immediately prior to shipment, delivery, transportation, or sale:

(a) In the case of any agricultural or vegetable seed that is shipped, delivered, transported, or sold to a dealer for resale, eight months.

(b) In the case of any agricultural or vegetable seed that is sold at retail, 15 months.

(c) In the case of any agricultural or vegetable seed that is packaged under conditions that the ~~director~~ *secretary* finds and determines will prolong the viability of the seed, the ~~director~~ *secretary* may designate, in regulations that are adopted pursuant to this chapter, a longer period than otherwise specified in this section, and may require any additional labeling that may be necessary to maintain identification of seed that is packaged under these conditions.

(d) Seed labeled under Section 52455 is not subject to subdivision (b) upon expiration of the viability assurance statement. This exemption does not limit the right of the enforcing officer to enforce other applicable sections of this chapter.

SEC. 12. Section 52482 of the Food and Agricultural Code is amended to read:

52482. Except as otherwise provided in Section 52486, it is unlawful for any person to ship, deliver, transport, or sell any agricultural or vegetable seed within this state that is within any of the following classes:

1 (a) Is not labeled in accordance with the provisions of this  
2 chapter. This subdivision does not, however, apply to any seed  
3 that is described in Section 52451.

4 (b) Contains prohibited noxious weed seed, subject to  
5 tolerances and methods of determination prescribed in the  
6 regulations that are adopted pursuant to this chapter. This  
7 subdivision does not, however, apply to any of the seed that is  
8 described in ~~subdivisions~~ *subdivision* (a) or (b) of Section 52451.

9 (c) Has ~~a~~ false or misleading labeling, or pertaining to which  
10 there has been a false or misleading advertisement.

11 (d) Is represented to be certified seed or registered seed, unless  
12 it has been produced and labeled in accordance with the  
13 procedures and in compliance with the rules and regulations of a  
14 seed-certifying agency that is officially recognized under the  
15 provisions of this chapter, if produced in this state, or under the  
16 provisions of the Federal Seed Act (7 U.S.C., Sec. 1551, et seq.),  
17 as enacted, and rules and regulations that are adopted pursuant to  
18 that act, if produced outside of this state.

19 (e) Contains more than 1 ½ percent by weight of all weed  
20 seeds. This subdivision does not, however, apply to any seed that  
21 is described in subdivision (a), (b), or (c) of Section 52451.

22 (f) To sell, by variety name, seed not certified by an official  
23 seed-certifying agency when it is a variety for which a certificate  
24 of plant variety protection under the United States Plant Variety  
25 Protection Act (84 Stats. 1542; 7 U.S.C. Sec. 2321, et seq.)  
26 specifies sale only as a class of certified seed, except that seed  
27 from a certified lot may be labeled as to variety name when used  
28 in a mixture by, or with the written approval of the owner of the  
29 variety.

30 SEC. 13. Section 52483 of the Food and Agricultural Code is  
31 amended to read:

32 52483. It is unlawful for any person to do any of the  
33 following:

34 (a) Detach, alter, deface, or destroy any label, warning tag, or  
35 notice that is provided for in this chapter or in the regulations that  
36 are adopted pursuant to it, or alter or substitute seed, in a manner  
37 that may defeat the purposes of this chapter.

38 (b) Disseminate any false or misleading advertisement  
39 concerning agricultural or vegetable seed in any manner or by  
40 any means.

1 (c) Hinder or obstruct in any way any authorized person in the  
2 performance of his *or her* duties under this chapter.

3 (d) Fail to comply with a “stop-sale” order.

4 SEC. 14. Section 52484 of the Food and Agricultural Code is  
5 amended to read:

6 52484. (a) Except as otherwise provided in Section 52486, it  
7 is unlawful for any person to ship, deliver, transport, or sell  
8 agricultural or vegetable seed that is treated after harvest with  
9 any substance that is likely to be poisonous or toxic to human  
10 beings or animals unless there is conspicuously shown on the  
11 analysis tag or label, on a separate tag or label attached to each  
12 container, or upon each container all of the following  
13 information:

14 (1) “TREATED SEED” and the signal word for the category  
15 of treatment material all in capital letters.

16 (2) The chemical or generic name of the treatment material.

17 (3) An appropriately worded statement as to the hazards to  
18 humans and animals.

19 (4) An appropriately worded statement of practical treatment,  
20 if present.

21 (b) This information shall be derived from the technical  
22 chemical label of the substance applied to the seed.

23 (c) When more than one substance is applied, each substance  
24 shall be noted on the label, and the seed shall be labeled for the  
25 substance with the higher level of toxicity.

26 SEC. 15. Section 52487 of the Food and Agricultural Code is  
27 amended to read:

28 52487. A violation of this chapter for having shipped,  
29 delivered, transported, or sold agricultural or vegetable seed that  
30 has a false or misleading labeling shall be construed to have been  
31 committed at the time of discovery of the violation, and a  
32 complaint charging the violation shall be filed within one year  
33 from the time of discovery. No complaint that charges such a  
34 violation shall, however, be filed after two years from the date of  
35 sale.

36 SEC. 16. Section 52511 of the Food and Agricultural Code is  
37 amended to read:

38 52511. Any lot of agricultural or vegetable seed that does not  
39 comply with this chapter is a public nuisance and is subject to  
40 seizure on complaint of the ~~director~~ *secretary* or the

1 commissioner or any enforcing officer of this chapter to a court  
2 of competent jurisdiction in the area in which the seed is located.

3 SEC. 17. Section 56382.8 of the Food and Agricultural Code  
4 is amended to read:

5 56382.8. (a) In addition to all other complaint procedures  
6 provided for in this chapter, any aggrieved grower or licensee  
7 with a complaint that is not subject to the federal Packers and  
8 Stockyards Act, 1921 (7 U.S.C. Sec. 181, et seq.) or the federal  
9 Perishable Agricultural Commodities Act, 1930 (7 U.S.C. Sec.  
10 499a et seq.) and for which the claim for damages does not  
11 exceed thirty thousand dollars (\$30,000), may file a verified  
12 complaint with the department, subject to expedited review and  
13 settlement. Informal complaints may be made for damages, but  
14 not for disciplinary action, although the department may issue a  
15 complaint pursuant to Section 56382 as the basis for disciplinary  
16 action. Informal complaints must be received by the department  
17 within nine months of when the claimant ought to have  
18 reasonably known of its existence, as required under Section  
19 56446.

20 (b) Complaints must be submitted to the department in writing  
21 and verified, and may be transmitted via United States mail,  
22 overnight delivery, or by facsimile transmission, setting forth the  
23 essential details of the transactions complained of, including the  
24 following:

25 (1) The name and address of each party to the dispute, of the  
26 agent representing him or her in the transaction involved, if any,  
27 as well as the party's counsel, if any.

28 (2) The quantity and quality or grade of each kind of produce  
29 shipped if a grade or quality is the basis of payment.

30 (3) The date of shipment.

31 (4) The carrier identification if a carrier was used.

32 (5) The shipping and destination points.

33 (6) If a sale, the date, sale price, and amount actually received.

34 (7) If a consignment, the date, reported proceeds, gross, and  
35 net.

36 (8) A precise estimate of the amount of damages claimed, if  
37 known.

38 (9) A brief statement of material facts in dispute, including  
39 terms of applicable contracts.

40 (10) The amount of damages being sought.

1 (c) The complaint shall also, so far as practicable, be  
2 accompanied by true copies of all available papers relating to the  
3 transaction complained about, including shipping documents,  
4 letters, telegrams, invoices, manifests, inspection certificates,  
5 accountings, accounts of sale, and any special contracts or  
6 agreements.

7 (d) The informal complaint shall be accompanied by a  
8 nonrefundable filing fee of sixty dollars (\$60) as required under  
9 Section 56382.5.

10 (e) Upon confirmation that a complaint has been properly and  
11 timely filed, including the securing of a denial letter from the  
12 United States Department of Agriculture under the Federal  
13 Packers and Stockyards Act, 1921, or the Federal Perishable  
14 Agricultural Commodities Act, 1930, the department shall send a  
15 copy of the complaint to the respondent by certified mail and  
16 advise the respondent that it shall have 30 days from the  
17 department's mailing of the complaint in which to answer the  
18 complaint. The answer shall contain a brief response to the  
19 complaint, including the respondent's position with respect to the  
20 claimant's description of matters in dispute, the relevant facts,  
21 and the remedy sought, together with a description of any claims  
22 it may have against the complainant, in the same manner as  
23 claims are to be set out in the complaint. The respondent shall  
24 also include any pertinent documentation relevant to its defense  
25 with its answer.

26 (f) After receipt of the answer from the respondent, the  
27 department shall informally consult with the parties to clarify the  
28 nature of the dispute and to facilitate the exchange of information  
29 between the parties in order to assist the parties in reaching an  
30 expedited informal resolution of the dispute. The informal  
31 consultation process will last no longer than 60 days. The parties  
32 shall cooperate fully with the department and shall participate in  
33 the informal consultation process.

34 (g) If the informal consultation process provided for in this  
35 section does not result in resolution of the dispute, the  
36 complainant may then pursue arbitration against the licensee and  
37 the complaint and any counterclaim will be fully and finally  
38 adjudicated and resolved by a decision of an arbitrator under  
39 expedited arbitration procedures as follows:

1 (1) The complainant shall submit a fee of six hundred dollars  
2 (\$600) to the department made payable to the arbitrator,  
3 arbitration service, or payee designated by the department for the  
4 arbitration and any counterclaimant shall submit a fee of six  
5 hundred dollars (\$600) to the department for any counterclaim  
6 that is filed also made payable to the arbitrator, arbitration  
7 service, or payee designated by the department.

8 (2) An arbitrator from a panel of arbitrators registered with the  
9 department shall be selected by the department and confirmed by  
10 both the complainant and the respondent or counterclaimant after  
11 the prospective arbitrator has certified that he or she has no  
12 known conflict of interest in the dispute and after each party has  
13 had an opportunity to lodge an objection for cause to the  
14 appointment of the named arbitrator within five days of its  
15 receipt of the notice of appointment of the arbitrator. The notice  
16 of appointment shall be in writing and may be transmitted via  
17 overnight delivery or by facsimile transmission.

18 (3) Upon confirmation of the appointment of the arbitrator the  
19 department will transmit to the arbitrator the verified complaint,  
20 the statement of defense, and the statement of counterclaim, if  
21 one is filed.

22 (4) The complainant shall have 30 days after receipt of the  
23 notice of appointment of the arbitrator to submit to the  
24 department in writing sworn declarations by witnesses and any  
25 other documentary evidence not previously submitted, as well as  
26 legal authorities and arguments.

27 (5) Within five days of the department's receipt of the  
28 complainant's written submission the department shall transmit a  
29 copy of the complainant's written submission to the respondent.  
30 The respondent shall have 30 days from the receipt of the  
31 complainant's written submission to submit to the department in  
32 writing responsive declarations by witnesses or other  
33 documentary evidence not previously submitted, as well as any  
34 legal authorities and arguments. The respondent's written  
35 submission in support of its counterclaim, if any, must be sent to  
36 the department at the same time as the responsive submission.

37 (6) If there is a counterclaim filed, within five days of the  
38 department's receipt of the counterclaimant's written submission  
39 the department shall transmit a copy of the counterclaimant's  
40 written submission to the complainant. The complainant shall

1 have 10 days from the receipt of the counterclaimant's written  
2 submission to submit any witness statements, evidence or legal  
3 authorities and arguments in reply.

4 (7) Once all periods for submission of evidence and arguments  
5 have expired and the department has transmitted all written  
6 submissions to the arbitrator, the case and all evidence to be  
7 considered by the arbitrator shall be deemed to be submitted.

8 (8) The arbitrator may, in the interest of justice, briefly extend  
9 the time periods for written submissions by either party.

10 (9) The arbitrator shall issue his or her arbitration decision and  
11 award in writing within 30 days after the case has been submitted  
12 for a decision. This time period may be extended by the arbitrator  
13 if, in his or her judgment, clarification of the evidence submitted  
14 is required from either the complainant, the respondent or  
15 counterclaimant, or both.

16 (10) No hearings or live testimony shall be conducted under  
17 the expedited arbitration procedures.

18 (11) The arbitrator shall award interest at the legal rate to be  
19 paid in addition to any damages that are awarded and the  
20 arbitrator may award the recovery of costs to one party to the  
21 arbitration or apportion costs between the parties as he or she  
22 deems appropriate. Costs may include filing fees, mediation fees  
23 and expenses, fees or expenses incurred by the department, fees  
24 paid to expert witnesses, auditors or inspectors, but not attorneys'  
25 fees, unless there has been an agreement by the parties that the  
26 prevailing party in any dispute shall be entitled to recover  
27 reasonable attorneys' fees as part of any award for damages, and  
28 in that case, the arbitrator may award reasonable attorneys' fees  
29 to the prevailing party.

30 (h) Either party to an expedited arbitration proceeding  
31 conducted pursuant to this section may bring an action in any  
32 California court of competent jurisdiction to enforce any awards  
33 for damages made pursuant to this section. If an enforcement  
34 action is necessary to secure payment of awards for damages, the  
35 party initiating the enforcement proceeding shall be entitled to  
36 recover all additional expenses, costs and attorneys' fees incurred  
37 in connection with that proceeding.

38 (i) The department shall retain jurisdiction, as provided for  
39 under Section 56445, over any matter in which a licensee refuses  
40 to pay or otherwise comply with an arbitrator's decision

1 conducted pursuant to the expedited arbitration procedures as set  
2 forth herein, and may immediately commence an action to  
3 revoke the license of the licensee.

4 (j) A complainant may enforce his or her rights through the  
5 verified complaint and expedited arbitration process as provided  
6 herein, or by a civil action brought in any court of competent  
7 jurisdiction. This section shall in no way abridge, preclude, or  
8 alter other remedies available to the parties now existing under  
9 common law or by statute, and the provisions set forth herein are  
10 in addition to those other remedies.

11 SEC. 18. Section 78623 of the Food and Agricultural Code is  
12 amended to read:

13 78623. "Districts" shall consist of the following:

14 (a) District 1 consists of Imperial and Riverside Counties.

15 (b) District 2 consists of Los Angeles, Orange, San Diego, San  
16 Luis Obispo, Santa Barbara, and Ventura Counties.

17 (c) District 3 consists of Fresno, Kern, Kings, and Tulare  
18 Counties.

19 (d) District 4 consists of Monterey County.

20 (e) District 5 consists of Madera, Merced, and Stanislaus  
21 Counties.

22 (f) District 6 consists of San Joaquin County.

23 (g) District 7 consists of all counties in the State of California.

24 The boundaries of any district may be changed by a two-thirds  
25 vote of the commission, which is concurred in by the secretary.  
26 These boundaries need not coincide with county lines.

27 SEC. 19. Section 78640 of the Food and Agricultural Code is  
28 amended to read:

29 78640. There is in the state government the California  
30 Tomato Commission. The commission shall be composed of 10  
31 producers, seven handlers, and may include one public member,  
32 at the discretion of the commission.

33 (a) Producers within the respective districts shall elect one  
34 producer from District 1, one producer from District 2, one  
35 producer from District 3, one producer from District 4, one  
36 producer from District 5, one producer from District 6, and four  
37 at-large producers from District 7.

38 (b) Handlers within Districts 1 to 6, inclusive, shall elect one  
39 handler from each district and one at-large handler from District  
40 7.

1 (c) The public member shall be appointed to the commission  
2 by the secretary from nominees recommended by the  
3 commission.

4 (d) The secretary and other appropriate individuals, as  
5 determined by the commission, shall be ex officio members of  
6 the commission.

7 SEC. 20. Section 78700 of the Food and Agricultural Code is  
8 amended to read:

9 78700. (a) The commission shall establish the assessment for  
10 the marketing season not later than March 1 of each year or as  
11 soon thereafter as is possible. The assessment shall not exceed  
12 twenty cents (\$0.20) per 100 pounds, or the equivalent, for  
13 tomatoes delivered to handlers by producers. Of the assessment,  
14 not more than ten cents (\$0.10) per 100 pounds prepared for  
15 market, or the equivalent, shall be assessed against producers,  
16 and not more than ten cents (\$0.10) per 100 pounds shall be  
17 assessed against handlers.

18 (b) An assessment greater than the amount provided for in this  
19 section may not be charged unless and until a greater fee is  
20 approved by a majority of the commission and by eligible  
21 producers and handlers pursuant to procedures specified in  
22 Section 78691.

23 SEC. 21. Section 79040 of the Food and Agricultural Code is  
24 amended to read:

25 79040. There is in the state government the California Sea  
26 Urchin Commission. The commission shall be composed of 11  
27 voting members, including five sea urchin handlers, five sea  
28 urchin divers, and one public member, and may include any  
29 number of nonvoting members, at the discretion of the  
30 commission.

31 (a) Handlers shall elect five commission members from among  
32 those persons qualified pursuant to this act and licensed pursuant  
33 to the Fish and Game Code to engage in the sea urchin fishery *or*  
34 *a person specifically representing one or more handlers.*

35 (b) (1) Divers statewide shall elect five persons from among  
36 those persons qualified pursuant to this act and licensed pursuant  
37 to the Fish and Game Code to engage in the sea urchin fishery.

38 (2) One diver member shall be elected from each of the  
39 following areas:

40 (A) San Diego County.

1 (B) Orange or Los Angeles County.

2 (C) Ventura County.

3 (D) Santa Barbara County.

4 (E) Sonoma or Mendocino County.

5 (3) Persons nominated for election to the commission as a  
6 diver member shall be nominated by a petition signed by not less  
7 than ~~10~~ *five* divers eligible to vote pursuant to this chapter.

8 (c) The public member shall be appointed to the commission  
9 by the secretary from nominees recommended by the  
10 commission.

11 (d) The secretary and other appropriate individuals, as  
12 determined by the commission, shall be nonvoting members of  
13 the commission.

14 (e) If the secretary finds, pursuant to Section 79103, that either  
15 the divers or handlers, but not both, have voted in favor of the  
16 referendum, the number of commission voting members shall be  
17 six, composed of either five divers or five handlers, depending on  
18 which portion of the industry voted in favor of the referendum,  
19 elected pursuant to this section and one public member.

20 (f) If the composition of the commission is determined by  
21 subdivision (e) it shall also include at least one nonvoting  
22 member appointed by the commission representing either divers  
23 or handlers, whichever did not vote in favor of the referendum.

24 SEC. 22. No reimbursement is required by this act pursuant  
25 to Section 6 of Article XIII B of the California Constitution  
26 because the only costs that may be incurred by a local agency or  
27 school district will be incurred because this act creates a new  
28 crime or infraction, eliminates a crime or infraction, or changes  
29 the penalty for a crime or infraction, within the meaning of  
30 Section 17556 of the Government Code, or changes the  
31 definition of a crime within the meaning of Section 6 of Article  
32 XIII B of the California Constitution.